

**2019 Chief FOIA Officer Report
Federal Deposit Insurance Corporation
Charles Yi, General Counsel and Chief FOIA Officer
March 2018 - March 2019**

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?

Answer: Yes

2. Please provide the name and title of your agency's Chief FOIA Officer.

Answer:

Charles Yi
General Counsel

B. FOIA Training

3. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Answer: Yes

4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

Answer: All members of the FDIC's FOIA/Privacy Act Group ("FOIA Group") attended substantive FOIA training in this past year. This past June, the FDIC FOIA Group hosted a presentation by the Section Chief of the Federal Bureau of Investigation's (FBI) Record/Information Dissemination Section, Records Management Division. This presentation featured an overview of the FBI's FOIA program and the FOIA law enforcement exemptions, FOIA Exemption 7 and its subsections, for both our FOIA

Group staff and the subject matter experts that we work with in the FDIC Divisions. In addition, many FDIC professionals have completed the Department of Justice e-Learning modules *FOIA Training for Professionals* and *FOIA Training for All Employees*,

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

Answer: 100% of the FOIA Group’s professionals and staff attended substantive FOIA training during the reporting period. A significant percentage (80%+) of staff not in the FOIA Group but who have FOIA responsibilities in their respective divisions or offices attended the previous FBI Presentation referred to above and will also attend substantive FOIA training in the form of an upcoming FOIA Coordinators Conference.

6. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Answer: N/A

C. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Answer: The FDIC FOIA Group did not engage in any specific outreach or dialogue with the requester community or open government groups this past year. However, FDIC representatives did attend government-wide Chief FOIA Officer meetings, which included members of the requester community, and all of the FDIC FOIA Group staff frequently communicate with requesters, as needed, concerning particular FOIA requests, to ensure that the FDIC is processing its FOIA requests as accurately, thoroughly and timely as reasonably possible.

D. Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related

performance standards in employee work plans for employees who have any role in administering the FOIA.

Answer: The Department of Justice’s e-Learning module, *FOIA Training for All Employees*, has been made available online to all employees through the FDIC’s Corporate University. Members of the FDIC FOIA Group staff also conducted interdivisional training of non-FOIA professionals on the changes made to the FOIA under the FOIA Improvement Act of 2016.

The FDIC Chairman has established a Corporation-wide “Transparency Initiative” that includes a Corporate Performance Goal for FOIA professional staff in 2019. Employee efforts to achieve this 2019 Corporate Performance Goal would be considered in the performance ratings of the relevant FOIA staff.

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Answer: The FDIC Chairman has established a Corporation-wide “Transparency Initiative” that includes a Corporate Performance Goal for the FOIA staff, as noted in the answer to #8. In addition, the FOIA staff has performed an extensive review of the FDIC Reading Room, the reading rooms of sister banking agencies, and the relevant best practices set forth in the NARA 2016-18 FOIA Advisory Committee’s “Final Report and Recommendations.”

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

DOJ’s FOIA Guidelines emphasize that “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

1. For Fiscal Year 2018, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2018 Annual FOIA Report.

Answer: The FDIC’s average number of days for adjudicating requests for expedited processing was 5.73 days for Fiscal Year 2018. This was slightly quicker than in 2017.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: N/A

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

Answer: As part of the FDIC Chairman's Transparency Initiative, the FOIA Group has reviewed the FOIA Reading Room to identify best practices or improvements that could be made.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).

Answer: Requesters sought the assistance from the FDIC's FOIA Public Liaison an estimated 6 times from March 2018 to the present.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

Answer: In order to ensure efficiency, the FOIA Group produces regular reports which are used to monitor the processing of requests and to conduct quality assurance on our requests, including timeliness. In addition, the FOIA Group routinely reviews its automated FOIA system (FOIAXpress) to ensure the proper processing of requests. Among other things, all FOIA correspondence and responsive records are maintained electronically to improve efficiency. Occasional technological limitations can occur with FOIAXpress, and FDIC Division of Information Technology staff provide support to resolve or assist in finding alternative solutions to these limitations.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material

Answer: Information posted on the FDIC's website during the reporting period (calendar year 2018) includes:

Quarterly Banking Profiles:

Fourth Quarter 2017 - <https://www.fdic.gov/bank/analytical/quarterly/2018-vol12-1/fdic-v12n1-4q2017.pdf>

First Quarter 2018 – <https://www.fdic.gov/bank/analytical/quarterly/2018-vol12-2/fdic-v12n2-1q2018.pdf>

Second Quarter 2018 - <https://www.fdic.gov/bank/analytical/quarterly/2018-vol12-3/fdic-v12n3-2q2018.pdf>

Third Quarter 2018 - <https://www.fdic.gov/bank/analytical/quarterly/2018-vol12-4/fdic-v12n4-3q2018.pdf>

FDIC Consumer News:

Summer 2018 - <https://www.fdic.gov/consumers/consumer/news/csum18/>

Chief Financial Officer's (CFO) Reports to the Board:

Third Quarter 2017 – <https://www.fdic.gov/about/strategic/corporate/cfo-report-3rdqtr-17/0917-cfo-report.pdf>

Fourth Quarter 2017 – <https://www.fdic.gov/about/strategic/corporate/cfo-report-4thqtr-17/1217-cfo-report.pdf>

First Quarter 2018 - <https://www.fdic.gov/about/strategic/corporate/cfo-report-1stqtr-18/0318-cfo-report.pdf>

Second Quarter 2018 - <https://www.fdic.gov/about/strategic/corporate/cfo-report-2ndqtr-18/0618-cfo-report.pdf>

Documents considered at FDIC Board of Director's open meetings:

<https://www.fdic.gov/news/board/>

FDIC Chairman's Calendars:

First Quarter 2017 through Second Quarter 2018 -

<https://www.fdic.gov/about/freedom/chairmanschedule.html>

FDIC FOIA Log:

Fiscal Year 2017 - <https://www.fdic.gov/about/freedom/fdicfoialogfy2017.pdf>

2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).

Answer: During the intake process for new FOIA requests, FOIA staff perform electronic searches for similar FOIA requests within our FOIAXpress database to uncover documents that have been previously requested and released.

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Answer: Yes. The FDIC has taken steps to make information posted on its website more useful to the public.

4. If yes, please provide examples of such improvements.

Answer:

Recently, the FDIC's Chairman, Jelena McWilliams, announced a new Corporate-wide "Trust through Transparency" initiative. As explained on the home page of the FDIC's public web site at <https://www.fdic.gov/transparency/>:

The longstanding mission of the FDIC is to maintain public confidence and stability in the U.S. financial system—a mission that we cannot achieve without the trust and confidence of the institutions we supervise and insure, our fellow regulators, and the public. The best way to build trust and confidence is through openness and accountability. To that end, I am pleased to announce the FDIC's *'Trust through Transparency'* initiative.

This initiative builds upon the FDIC's solid foundation of public trust and accountability by fostering a deeper culture of openness. This initiative will further unite each business area across the FDIC behind the goals of being accessible, understandable, and responsive.

A key feature of the *Trust through Transparency* initiative is the publication of performance metrics, such as turnaround times for examinations and bank charter applications, call center usage and response times, and data on the status of supervisory and assessment appeals.

A dedicated email address for the public's feedback to the Chairman on transparency has also been created: Transparency@fdic.gov.

The FDIC's Office of Communications continues to use the GovDelivery network to distribute emailed announcements to any users of the FDIC's public website who opt to receive a wide variety of the FDIC's latest news and other public information releases on a wide variety of topics. This subscription service provides the convenience of direct information delivery to the public, thereby making the FDIC's public website even more accessible and user friendly. Below is a list of the high-level FDIC categories of public information currently available for direct email subscription:

- Bank Data & Statistics
- Bank/Regulatory Policy
- Consumers
- Corporate Plans & Reports
- Failed Bank Information
- News & Events
- Research & Analysis
- Real Estate Sales

The FDIC’s web link for obtaining subscriptions via the GovDelivery network is at:
<https://service.govdelivery.com/accounts/USFDIC/subscriber/new>.

Lastly, the FDIC continues to leverage its use of social media to interface with the public via Twitter, Facebook and LinkedIn.

5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

Answer: In accordance with the FDIC Chairman’s “Trust through Transparency” initiative, the FDIC is actively striving to become even more transparent. We are not aware of any challenges to this effort.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

Answer: Yes. The FDIC continues to use e-discovery software, as needed, to search for responsive emails. Examples of the type of technology include well-known retail products.

2. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Answer: Yes. As noted above on page 3, the FOIA staff has recently performed an extensive review of the FDIC Reading Room, the reading rooms of sister banking agencies, and the relevant best practices set forth in the NARA 2016-18 FOIA Advisory Committee’s “Final Report and Recommendations.”

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?

Answer: Yes. All four of the FDIC’s quarterly FOIA reports for Fiscal Year 2018 were successfully posted online.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency’s plan for ensuring that such reporting is successful in Fiscal Year 2019.

Answer: N/A

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency’s Fiscal Year 2017 Annual FOIA Report and, if available, for your agency’s Fiscal Year 2018 Annual FOIA Report.

Answer: <https://www.fdic.gov/about/freedom/reports.html>

6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

Answer: The FOIA Group recently successfully implemented the latest version of FOIAXpress software on the FDIC’s network and has successfully been receiving FOIA requests through the FOIA.gov web portal.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency’s 2018 Annual FOIA Report and, when applicable, your agency’s 2017 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.

Answer: Yes. N/A.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018?

Answer: Yes. The average number of days to process simple requests in Fiscal Year 2018 was 9.95 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.

Answer: 57% of requests processed by the FDIC in Fiscal Year 2018 were placed in the simple track (248 out of 431).

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Answer: N/A

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

Answer: The FDIC had a backlog of 1 request at the end of both Fiscal Year 2018 and Fiscal Year 2017.

6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017?

Answer: N/A

7. If your agency's request backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2018. If your agency has no request backlog, please answer with "N/A."

Answer: The percentage of requests that make up the backlog reported at the end of Fiscal Year 2018 is 0.23% (1 out of 423).

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

Answer: The FDIC reported no backlogged appeals at the end of either Fiscal Year 2017 or Fiscal Year 2018.

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?

Answer: N/A

11. If your agency's appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

- Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

Answer: N/A

C. Backlog Reduction Plans

13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2018?

Answer: N/A

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?

Answer: N/A

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Answer: Yes. In Fiscal Year 2018, the FDIC closed the ten oldest requests that were reported pending in its Fiscal Year 2017 Annual FOIA Report.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

Answer: N/A

17. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

Answer: One of the FDIC's ten oldest requests reported in Fiscal Year 2017's Annual FOIA report was closed as withdrawn by the requester. The FDIC did provide an interim response in said request.

18. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

Answer: N/A

TEN OLDEST APPEALS

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Answer: The FDIC did not have any pending ten oldest appeals in Fiscal Year 2017.

20. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

Answer: N/A

21. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

Answer: N/A

TEN OLDEST CONSULTATIONS

22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Answer: Yes. In Fiscal Year 2018, the FDIC closed the three consultations that were reported pending at the end of Fiscal Year 2017 Annual FOIA Report.

23. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

Answer: N/A

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.

Answer: N/A

25. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Answer: N/A

26. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2018.

Answer: N/A

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer:

Recently, the FDIC’s Chairman, Jelena McWilliams, announced a new Corporate-wide “Trust through Transparency” initiative. As explained on the home page of the FDIC’s public web site at <https://www.fdic.gov/transparency/>:

The longstanding mission of the FDIC is to maintain public confidence and stability in the U.S. financial system—a mission that we cannot achieve without the trust and confidence of the institutions we supervise and insure, our fellow

regulators, and the public. The best way to build trust and confidence is through openness and accountability. To that end, I am pleased to announce the FDIC's '*Trust through Transparency*' initiative.

This initiative builds upon the FDIC's solid foundation of public trust and accountability by fostering a deeper culture of openness. This initiative will further unite each business area across the FDIC behind the goals of being accessible, understandable, and responsive.

A key feature of the *Trust through Transparency* initiative is the publication of performance metrics, such as turnaround times for examinations and bank charter applications, call center usage and response times, and data on the status of supervisory and assessment appeals.

A dedicated email address for the public's feedback to the Chairman on transparency has also been created: Transparency@fdic.gov.